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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Brian J. Schulman, SBN 015286  
Attorneys for Respondents Patrick Leonard Shudak  
and Promise Land Properties, LLC

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

GARY PIERCE, Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

Arizona Corporation Commission

**DOCKETED**

NOV 26 2012

DOCKETED BY

In the matter of:

PATRICK LEONARD SHUDAK, a single man,

PROMISE LAND PROPERTIES, LLC, an Arizona  
limited liability company,

and

PARKER SKYLAR & ASSOCIATES, LLC, an  
Arizona limited liability company,

Respondents.

DOCKET NO. S-20859A-12-0413

**ANSWER TO NOTICE OF  
OPPORTUNITY FOR HEARING**

Respondents Patrick Leonard Shudak ("Shudak") and Promise Land Properties, LLC  
("Promise Land") submit their answer to the Notice of Opportunity for Hearing Regarding  
Proposed Order to Cease and Desist, Order for Restitution, for Administrative Penalties and for  
Other Affirmative Action (the "Notice") filed by the Securities Divisions (the "Division") of the  
Arizona Corporation Commission (the "ACC") on September 21, 2012. Shudak and Promise  
Land (collectively "Respondents") respond to the numbered paragraphs of the Notice as follows:

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**I.**

**JURISDICTION**

1. Respondents deny the allegations in paragraph 1.

**II.**

**RESPONDENTS**

2. Respondents admit the allegations in paragraph 2.

3. In response to paragraph 3, Respondents admit that Promise Land was a manager-managed Arizona limited liability company organized on or about March 8, 2007, and that Shudak formerly managed the company. Respondents deny the remaining allegations, and affirmatively allege that Shudak ceased participating in the business of Promise Land no later than December 15, 2009, if not earlier.

4. In response to paragraph 4, Respondents admit that Parker Skylar was an Arizona limited liability company organized on or about May 17, 2007, and that Shudak was a member of Parker Skylar. Respondents affirmatively allege that on or about December 15, 2009 Shudak resigned as manager and assigned all of his interests in Parker Skylar to other members of the company.

5. Paragraph 5 requires no response.

**III.**

**FACTS**

6. Respondents deny the allegations in paragraph 6.

7. Respondents admit the allegations in paragraph 7, and affirmatively allege upon information and belief that the unnamed developer is Alan Thome of Sunburst Properties, Inc.

8. Upon information and belief, Respondents admit the allegations in paragraph 8.

9. In response to paragraph 9, Respondents admit that Shudak, on behalf of Promise Land, in and from Arizona solicited accredited investors to purchase membership interests in Promise Land, relying upon the advice and work product of legal counsel. Respondents deny the remaining allegations.

10. In response to paragraph 10, Respondents admit that Shudak, on behalf of

1 Promise Land, in and from Arizona solicited accredited investors to purchase membership  
2 interests in Promise Land, relying upon the advice and work product of legal counsel, and that the  
3 investors were persons who Shudak either knew or was introduced to by mutual acquaintances.  
4 Upon information and belief, the investors included an Arizona entity, and individuals from  
5 Arizona, Nebraska, and Minnesota. Respondents deny the remaining allegations.

6 11. In response to paragraph 11, Respondents are without knowledge or information  
7 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

8 12. In response to paragraph 12, Respondents are without knowledge or information  
9 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

10 13. In response to paragraph 13, Respondents affirmatively allege that Shudak, on  
11 behalf of Promise Land, sold membership interests in the company, and that Respondents relied  
12 on advice of legal counsel concerning whether the membership interests were required to be  
13 registered with the Commission. Respondents deny the remaining allegations.

14 14. In response to paragraph 14, Respondents are without knowledge or information  
15 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

16 15. In response to paragraph 15, Respondents admit that CC Land purchased the  
17 property for the Tombstone Project in part by using financing from an institutional lender.  
18 Respondents are without knowledge or information sufficient to form a belief as to the truth of the  
19 remaining allegations, and therefore deny them.

20 16. In response to paragraph 16, Respondents affirmatively allege that Shudak, on  
21 behalf of Cochise County 1900, LLC, sought to raise money to develop a residential real estate  
22 project consisting of approximately 1,900 acres near Bisbee, Arizona. Respondents deny the  
23 remaining allegations.

24 17. Respondents admit the allegations in paragraph 17, and affirmatively allege upon  
25 information and belief that the unnamed developer was Alan Thome of Sunburst Properties, Inc.

26 18. Respondents admit the allegations in paragraph 18.

27 19. Upon information and belief, Respondents admit the allegations in paragraph 19.

28 20. In response to paragraph 20, Respondents affirmatively allege that the CC 1900

1 operating agreement, dated April 14, 2008, speaks for itself, and they deny any allegations  
2 inconsistent with the operating agreement.

3 21. In response to paragraph 21, Respondents affirmatively allege that the CC 1900  
4 operating agreement speaks for itself, and they deny any allegations inconsistent with the  
5 operating agreement.

6 22. In response to paragraph 22, Respondents admit that Shudak, on behalf of CC  
7 1900, in and from Arizona solicited accredited investors to purchase membership interests in  
8 Parker Skylar, relying upon the advice and work product of legal counsel, and that the investors  
9 were persons who Shudak either knew or was introduced to by mutual acquaintances.  
10 Respondents deny the remaining allegations.

11 23. In response to paragraph 23, Respondents admit that Shudak met with prospective  
12 investors in Arizona, Iowa, and Nebraska. Respondents deny the remaining allegations.

13 24. In response to paragraph 24, Respondents admit that Shudak described the Bisbee  
14 Project, but they deny that Shudak told attendees that "they would earn a substantial return on  
15 their investment in a short period of time."

16 25. Respondents deny the allegations in paragraph 25.

17 26. In response to paragraph 26, Respondents are without knowledge or information  
18 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

19 27. In response to paragraph 27, Respondents affirmatively allege that investors who  
20 purchased membership interests in Parker Skylar received documentation prepared by legal  
21 counsel, and that Respondents reasonably relied on the advice and professed expertise of legal  
22 counsel. Respondents further affirmatively allege that those documents speak for themselves.  
23 Respondents deny the remaining allegations.

24 28. In response to paragraph 28, Respondents affirmatively allege that certain  
25 members of Parker Skylar received promissory notes, the terms of which speak for themselves.  
26 Respondents deny any allegations inconsistent with the terms of the notes.

27 29. In response to paragraph 29, Respondents affirmatively allege that investors who  
28 purchased membership interests in Parker Skylar received documentation prepared by legal

1 counsel, and that Respondents reasonably relied on the advice and professed expertise of legal  
2 counsel. Respondents further affirmatively allege that those documents speak for themselves.  
3 Respondents deny the remaining allegations.

4 30. In response to paragraph 30, Respondents are without knowledge or information  
5 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

6 31. In response to paragraph 31, Respondents are without knowledge or information  
7 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

8 32. In response to paragraph 32, Respondents deny the allegations, and affirmatively  
9 represent that the members of Parker Skylar were advised that their funds would be used to  
10 operate CC 1900's business for the development of the Bisbee Project.

11 33. In response to paragraph 33, Respondents deny the allegations, and affirmatively  
12 allege that the so-called P-S Investors relied on the experience and expertise of the developer of  
13 the Bisbee Project, Alan Thome, and that on or about December 15, 2009, at the request of P-S  
14 Investors, Shudak resigned as manager and assigned his interest in Parker Skylar to those P-S  
15 Investors. Shudak has had no involvement in Parker Skylar, CC 1900, or the Bisbee Project since  
16 then, if not earlier.

17 34. In response to paragraph 34, Respondents are without knowledge or information  
18 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

19 35. In response to paragraph 35, Respondents are without knowledge or information  
20 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

21 36. In response to paragraph 36, Respondents are without knowledge or information  
22 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

23 37. The allegations in paragraph 37 of the Notice contain an incomplete, inaccurate  
24 and misleading statement of the facts, and are therefore denied.

25 38. The allegations in paragraph 38 of the Notice contain an incomplete, inaccurate  
26 and misleading statement of the facts, and are therefore denied.

27 39. In response to paragraph 39, Respondents are without knowledge or information  
28 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

1           40.     In response to paragraph 40, Respondents are without knowledge or information  
2 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

3           41.     The allegations in paragraph 41, contain an incomplete, inaccurate and misleading  
4 statement of the facts, and are therefore denied.

5           42.     In response to paragraph 42, Respondents are without knowledge or information  
6 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

7           43.     In response to paragraph 43, Respondents are without knowledge or information  
8 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

9           44.     In response to paragraph 44, Respondents affirmatively allege that the Investment  
10 Purchase Agreement, Investment Agreement, and CC 1900 Operating Agreement each speak for  
11 themselves, and deny any allegations inconsistent with the terms contained therein.

12           45.     Respondents deny the allegation in paragraph 45.

13           46.     Respondents deny the allegations in paragraph 46.

14           47.     Respondents deny the allegations in paragraph 47, and affirmatively allege that  
15 Alan Thome, the manager of CC 1900, possesses real estate development experience and  
16 knowledge.

17           48.     Respondents deny the allegations in paragraph 48, and affirmatively allege that  
18 the CC 1900 Operating Agreement speaks for itself.

19           49.     The allegations in paragraph 49 of the Notice contain an incomplete, inaccurate  
20 and misleading statement of the facts, and are therefore denied.

21           50.     In response to paragraph 50, Respondents are without knowledge or information  
22 sufficient to form a belief as to the truth of the allegations, and therefore deny them.

23                               **IV.**

24                               **VIOLATION OF A.R.S. § 44-1841**  
                                  **(Offer or Sale of Unregistered Securities)**

25           51.     Respondents deny the allegations in paragraph 51.

26           52.     Respondents deny the allegations in paragraph 52.

27           53.     Respondents deny the allegations in paragraph 53.

28           54.     Respondents deny the allegations in paragraph 54.

V.  
**VIOLATION OF A.R.S. § 44-1842**  
**(Transactions by Unregistered Dealers or Salesmen)**

55. Respondents deny the allegations in paragraph 55.

56. Respondents deny the allegations in paragraph 56.

VI.  
**VIOLATION OF A.R.S. § 44-1991**  
**(Fraud in Connection with the Offer or Sale of Securities)**

57. Respondents deny the allegations in paragraph 57, including its subparts.

58. Respondents deny the allegations in paragraph 58.

59. Respondents deny the allegations in paragraph 59.

**GENERAL DENIAL**

60. Respondents deny each and every allegation not specifically admitted.

**AFFIRMATIVE DEFENSES**

The following affirmative defenses nullify any potential claims asserted by the Division.  
Respondents reserve the right to amend this Answer to assert additional defenses after completion of discovery.

**First Affirmative Defense**

No violation of the Arizona Securities Act occurred because Respondents did not offer or sell securities.

**Second Affirmative Defense**

Because the Respondents did not offer or sell any securities, the Arizona Securities Division has no jurisdiction to bring this action and the action should be dismissed.

**Third Affirmative Defense**

The Notice fails to state a claim upon which relief can be granted.

**Fourth Affirmative Defense**

The Division has failed to plead fraud with reasonable particularity as required by Rule 9(b) of the Arizona Rules of Civil Procedure.

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**Fifth Affirmative Defense**

Respondents did not know and in the exercise of reasonable care could not have known of any alleged untrue statements or material omissions as set forth in the Notice.

**Sixth Affirmative Defense**

Respondents did not act with the requisite scienter.

**Seventh Affirmative Defense**

Respondents did not employ a deceptive or manipulative device in connection with the purchase or sale of any security.

**Eighth Affirmative Defense**

Respondents did not violate A.R.S. § 44-1991.

**Ninth Affirmative Defense**

Individuals entering into the alleged transactions suffered no injuries or damages as a result of Respondents' alleged acts.

**Tenth Affirmative Defense**

Individuals entering into the alleged transactions approved and/or authorized and/or directed all of the transactions.

**Eleventh Affirmative Defense**

If transactions at issue were securities, then they were exempt from registration and/or sold in an exempt transaction.

**Twelfth Affirmative Defense**

This proceeding before the Arizona Corporation Commission denies Respondents essential due process and is lacking in fundamental fairness. Respondents' constitutional rights will be further denied if they are not afforded trial by jury of this matter.

**Thirteenth Affirmative Defense**

The Division cannot meet the applicable standards for any of the relief it is seeking in the Notice.

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**Fourteenth Affirmative Defense**

Respondents did not offer or sell securities within the meaning of the Arizona Securities Act.

**Fifteenth Affirmative Defense**

Respondents did not offer or sell or participate in the offer or sale of securities.

**Sixteenth Affirmative Defense**

Restitution is not an appropriate remedy.

**Seventeenth Affirmative Defense**

To the extent an award of restitution is appropriate, the Commission should use its discretion to reduce the amount, if any, Respondents must pay.

**Eighteenth Affirmative Defense**

To the extent there are any violations of Arizona's securities laws, the Division has failed to name all parties at fault.

**Nineteenth Affirmative Defense**

Respondents allege such other affirmative defenses set forth in the Arizona Rules of Civil Procedure 8(c) as may be determined to be applicable during discovery.

DATED this 26th day of November, 2012.

GREENBERG TRAURIG, LLP

By: 

BRIAN J. SCHULMAN

Attorneys for Respondents Patrick Leonard Shudak  
and Promise Land Properties, LLC

ORIGINAL and 13 copies of  
the foregoing hand-delivered on this  
26th day of November, 2012 to:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

1  
2 COPY of the foregoing emailed/mailed  
on this 26th day of November, 2012 to:

3 Matthew J. Neubert  
4 Ryan J. Millecam  
5 Arizona Corporation Commission  
6 Securities Division  
1300 West Washington Street, 3<sup>rd</sup> Floor  
Phoenix, AZ 85007

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